

From: [Peterson, David](#)
To: [David Buckley](#); [Cohen, Andy \(DEP\)](#)
Cc: [DeCambre, Peter](#); [Finkel, Ethan](#)
Subject: FW: W&L ROD ARARs DEP Comments
Date: Wednesday, September 25, 2019 12:43:11

Dave and Andy,

See responses below (*in italics*). Please give me a call if you have any questions.

Thanks,
Dave
(617) 918-1891

From: Finkel, Ethan <finkel.ethan@epa.gov>
Sent: Wednesday, September 25, 2019 10:39 AM
To: Peterson, David <Peterson.David@epa.gov>; DeCambre, Peter <decambre.peter@epa.gov>
Subject: FW: W&L ROD ARARs DEP Comments

DEP comments on ARAR tables below.

From: Buckley, David (DEP) <david.buckley@state.ma.us>
Sent: Wednesday, September 25, 2019 10:22
To: Finkel, Ethan <finkel.ethan@epa.gov>
Subject: W&L ROD ARARs DEP Comments

Hi Ethan, below are DEPs comments on the ARARs Tables (Appendix D):

1. SL-3 Action Specific TBC: Suggest adding **DEP Policy # Comm-97-001 - Reuse & Disposal of Contaminated Debris at Massachusetts Landfills**
Policy provides guidance for the disposal of contaminated soils at landfills in Massachusetts.

ARARs don't address off-site disposal.

2. SL-3 Action Specific TBC: Suggest adding **DEP Guidance dated January 312, 2018 - Noise Pollution Policy Interpretation**
Provides further guidance on the noise pollutions control requirements of 310 CMR 7.00.

Generally, EPA only cites the actual State regulation as an ARAR. Compliance with State ARARs is based on the actual text of the regulation, not on any subsequent State policies that maybe issued interpreting the regulations. EPA can review and consider the State policy, but it would not be identified as a TBC in the ARARs tables.

3. GW/SW 3a & 3b General Question: I believe at one point EPA determined that W&L waste were listed F waste. It would appear by reviewing the ARARs that EPA will determine if a waste is hazardous by its characteristics only. Please elaborate on this decision.

Even if listed F waste was present (identified at the time of the removal action?), for disposal purposes under EPA's "Contained-In Policy" it is still required to test for haz waste characteristics in soil and debris contaminated with hazardous waste to determine what facility can accept the wastes. See <https://www.epa.gov/hw/contained-policy-soil-and-debris-contaminated-hazardous-waste>

4. GW/SW 3a & 3b Action Specific: **40 CFR 264 - RCRA Subtitle C; Landfill Closure & Post Closure Care** is identified as Relevant and Appropriate for the long term maintenance of the existing engineered cover system. The cover system is primary a barrier so there is no direct contact with contaminated groundwater upwelling in residential backyards. The cover does not contain a solid waste (therefore does not contain a hazardous waste). The cover also does not meet even the minimal requirements of RCRA Subtitle C cover system. The regulation cited is not relevant and appropriate for the existing cover and DEP requests EPA remove this citation.

These regulations are cited as relevant and appropriate because the engineered cover is not on a landfill, but a cover over contaminated media. However, the regulations include provisions that are relevant and appropriate for maintaining a protective cover over the contaminated media. Specifically: (a) Provide long-term minimization of migration of liquids through the closed landfill; (b) Function with minimum maintenance; (c) Promote drainage and minimize erosion or abrasion of the cover; (d) Accommodate settling and subsidence so that the cover's integrity is maintained; and (e) prevent run-off and run-on from eroding or otherwise damaging the final cover; and (f) protect and maintain surveyed benchmarks.

5. GW/SW 3a & 3b Action Specific: **310 CMR 30.500 – Massachusetts Hazardous Waste Management Rules – General Standards for Hazardous Waste Facilities** is identified as relevant and appropriate in reference to the existing engineered cover. See comment 4 details.

See response to Comment 4.

6. GW/SW 3a & 3b Action Specific: **310 CMR 30.633 - Massachusetts Hazardous Waste Rules: Landfill Closure/Post Closure** Care is identified as relevant and appropriate in reference to the existing engineered cover system: See comment 4 for additional details.

See response to Comment 4.

7. GW/SW 3a & 3b Action Specific: **310 CMR 40.0111(8) – Massachusetts Contingency Plan** should be added. This section outlines requirements for NAULs or GERE when implemented at CERCLA sites.

While the NAUL provisions of the MCP directly apply to CERCLA sites, the process is administrative so would not be identified as an ARAR. The text of the ROD does discuss the potential use of NAULS as ICs, for example on page 65: “Institutional Controls may be implemented through measures that may include, but are not limited to, a local City ordinance or a Notice of Activity and Use Limitation (NAUL).”

8. GW/SW 3a & 3b Action Specific TBC: Suggest adding **DEP Policy # Comm-97-001 - Reuse & Disposal of Contaminated Debris at Massachusetts Landfills**
Policy provides guidance for the disposal of contaminated soils at landfills in Massachusetts.

See response to Comment 1.

9. GW/SW 3a & 3b Action Specific TBC: Suggest adding **DEP Guidance dated January 312, 2018 - Noise Pollution Policy Interpretation**
Provides further guidance on the noise pollutions control requirements of 310 CMR 7.00.

See response to Comment 2.

10. GW/SW 3a & 3b Action Specific TBC: Suggest adding **DEP Guidance # WSC-16-435 - Vapor Intrusion Guidance: Site Assessment, Mitigation & Closure**. Guidance provides general rules for the long term monitoring of SSDSs.

The ROD cites EPA guidance on addressing vapor intrusion. See also response to Comment 2.

11. GW/SW 3a & 3b Action Specific TBC: Suggest adding **DEP Guidance # WSC-310-91 - Standard Reference for Monitoring Wells**. Section 4.6 discusses decommissioning of wells no longer in use.

*Generally, EPA follows federal procedures on the use of monitoring wells unless there are promulgated regulations that can be cited as ARARs. EPA was not able to locate a Section 4.6 on the State’s website for WSC-310-91
(<https://www.mass.gov/files/documents/2016/08/qo/sec4.pdf>).*

12. BR-3 Chemical Specific: **40 CFR 141 Subpart G – Safe Drinking Water Act** is identified as relevant and appropriate. Please elaborate on why EPA believes drinking water standards are currently met in the BRWRPD.

MCLs are always cited as “Relevant and Appropriate” in RODs because they are regulations for public drinking water suppliers not directly groundwater cleanup standards (so are not “Applicable”). The current record does not show any exceedances of MCLs in the BRWRPD, but groundwater exceeding the standards has been identified close to the boundary. If exceedances are found in the BRWRPD MCLs will be used as cleanup standards (if the contingent treatment remedy is implemented).

13. BR-3 Chemical Specific: **40 CFR 141 Subpart F – National Primary Drinking Water Regulations** MCLs is identified as relevant and appropriate. Please elaborate on why EPA believes the drinking water standards are currently met in the BRWRPD.

See response to Comment 12.

14. BR-3 Chemical Specific: **310 CMR 22.00 - Massachusetts Drinking Water Standards** is identified as relevant and appropriate. Please elaborate on why EPA believes the drinking water standards are currently met in the BRWRPD.

The Status of the State’s Drinking Water Standards should be changed to “Applicable.” Regarding the second sentence of the comment, see response to Comment 12.

15. BR-3 Action Specific: **310 CMR 27.00 – Underground Injection Control** should be added since this remedy may include a similar component to GW/SW 3a & 3b, specifically in-situ treatment.

The regulations are cited on page 3 of the table:

<i>Underground Injection Control</i>	<i>310 CMR 27.00</i>	<i>Applicable</i>	<i>These regulations protect underground sources of drinking water by regulating the underground injection of hazardous wastes, fluids used for</i>	<i>If the contingency component of this alternative is needed, in-situ treatment will be implemented in compliance with these standards</i>
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*extraction of
minerals, oil, and
energy and any
other fluids
having potential
to contaminate
groundwater as
required by the
Federal
Safe Drinking
Water Act.*

16. BR-3 Chemical Specific TBC: Suggest adding **Massachusetts Standards & Guidelines for Contaminants in Massachusetts Drinking Water (Spring 2017)**. Provides recommended guidelines for contaminants without MCLs/MMCLs.

Chemical-specific standards are either promulgated cleanup standards in federal or state regulations or federal risk-based standards. Since the guidelines are not promulgated State regulations they wouldn't be cited as chemical-specific standards.

17. BR-3 Action Specific TBC: Suggest adding **DEP Guidance # WSC-310-91 - Standard Reference for Monitoring Wells**. Section 4.6 discusses decommissioning of wells no longer in use.

See response to comment 11.

18. BR-3 Action Specific TBC: Suggest adding **DEP Guidance dated January 312, 2018 - Noise Pollution Policy Interpretation**. Provides further guidance on the noise pollutions control requirements of 310 CMR 7.00.

See response to comment 2.

Andy is discussing a couple of questions I have with our RCRA people regarding waste determinations and LDRs (310 CMR 30.750). I will let you know if there is anything additional

Having received the draft ROD yesterday afternoon I have not had the opportunity to review so it is possible some of these comments are addressed in the document. Please share with Dave Peterson and he and Andy can discuss directly. Feel free to call with any questions.

Dave

David Buckley

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